

REMARKS

Applicants appreciate the courtesies extended to their representative, Allan Fanucci (Reg. No. 30256), during an interview with Examiner Carolyn Paden on July 30, 2003. The comments appearing herein are essentially the same as those that were presented and discussed during the interview.

Claims 7-14 and 16-22, as amended, appear in this application for the Examiner's review and consideration. Claims 1-6 have been cancelled without prejudice to applicants' right to file a continuation or divisional application for the subject matter of those claims. Claim 15 was also cancelled and was incorporated into claim 7. In addition, claim 7 was amended to clarify that the method enhances the energetic and protein content of a food, as supported by paragraph [0011] of the published application. No new matter has been introduced with these amendments, and they should be entered at this time to at least reduce the issues for appeal. Furthermore, the amended language was previously presented to the Examiner in the dependent claims, so that there are no new issues to be considered in evaluating the patentability of the independent claims. In view of the following comments, it is believed that another reason for entering these amendments is that they place the entire application in condition for allowance.

The cancellation of claims 1-6 thus renders moot any rejections of those claims.

The remaining claims were rejected under 35 USC 103(a) as being obvious over the Bonnassee patent of record for the reasons stated on page 3 of the Office Action.

Before addressing Bonnassee, it is believed that a brief summary of the present invention would be helpful. The present invention is directed to a method of providing a tasteless food supplement for addition to food to enhance the energetic and protein content thereof. As recited in these method claims, the supplement is a powder composition that is added to food. Thus, the invention of the claims is not intended to replace a meal. Rather, the consumer sprinkles or admixes the composition on food or an otherwise prepared meal for the purpose of ensuring the consumption of an enhanced energetic and protein content meal. Importantly, the food supplement is devoid of flavor or is neutrally flavored, so that when mixed with or sprinkled over food, the food flavors are not altered or the neutral flavor of the powder composition is easily masked by the food flavor. See, page 1, paragraph [0012] and [0013] of published application. Thus, the present claims are directed to a method of enhancing the energetic and protein content of a food.

In contrast, Bonnasse is directed to a process for preparing a granular food product, and in particular is directed to a process for preparing a granular food product for a liquid infant food product. See, Col. 2, line 11-13. Bonnasse does not disclose, teach or suggest a food supplement or powder composition to be added to food for providing balanced nutrition that might not otherwise be achieved by a meal. Nor does Bonnasse disclose, teach or suggest a method for manufacturing such a composition. Indeed Bonnasse does not disclose, teach nor suggest a method of enhancing the energetic or protein content of a food without affecting its taste. Instead, Bonnasse is directed to the entire meal itself, and in particular liquid meal for infants.

Moreover, claim 7 has been amended to recite that the energetic amount of protein is between about 20% and 30%, the energetic amount of fat and oil is between about 40% and 50% and the energetic amount of maltodextrin is between about 25% and 35%. Thus, not only are the macronutrients balanced, i.e., none of the nutrients highly dominate the mixture, the maltodextrin is a required component. Bonnasse on the other hand discloses a very different formulation, and does not require maltodextrin in its formulation. Specifically, Bonnasse discloses a very high carbohydrate content, i.e., 5% to 95%, up to 40% protein, and up to 80% oil or fat. Thus, the food product of Bonnasse has a predominance of carbohydrate and/or fat which it would need to have in order to be a complete meal.

Moreover, the problem addressed by Bonnasse was to provide a simple process for producing granular food products from carbohydrate, protein, and oil or fat. To that end, Bonnasse teaches mixing carbohydrates and/or protein rich materials with lipids, and further mixing the mixture to obtain a dough-like mix which can be formed into granules by moistening and particle to particle contacting. See col. 1, lines 56-65. In contrast, the present invention is directed to the problems associated with energetic or protein deficiencies of basic meals. Therefore, the problems addressed in the art are totally different for Bonnasse as compared to Applicants. Bonnasse was not at all concerned with providing a supplement to be added to potentially deficient foods, it was concerned with a process for forming a granular food.

It is noted that Bonnasse does mention maltodextrin in columns 3 and 4, but this is as a binder to make granulated particles and note as a carbohydrate to provide energy to the composition. Also, the amount of maltodextrin is relatively low, namely 7.5 parts of an aqueous solution of 40% water and 60 % maltodextrin, or about 4.5 wt. %, in contrast to the present invention's requirement of at least 25% maltodextrin.

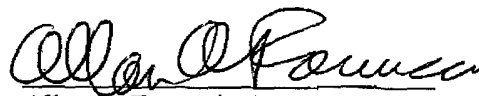
As the Bonnasse and Applicants are concerned with disparate problems in the art. Their solutions to such problems, i.e., their inventions, are not suggestive of each other. Specifically, the process of Bonnasse comprises mixing edible powdery carbohydrates and/or protein rich material with lipids..." This "and/or" language suggests that both carbohydrate and protein are not required. Such a suggestion actually teaches away from a food supplement for enhancing potentially nutrient-deficient meals. Thus, taking the reference as a whole, as one should, Bonnasse clearly does not teach or suggest a balanced powder composition for supplementing food, nor does it teach or suggest a method for manufacturing such or a method of enhancing the nutritional value of a meal.

In addition, as Bonnasse is directed to food, it is incorrect to believe that the product is devoid of any flavor. Even if embodied as an infant formula, although bland it might be, as suggested by the Examiner, bland flavor and devoid of any flavor, are not suggestive of each other. Therefore, claims 7-14 and 16-22 are not rendered obvious over Bonnasse. Applicants request that the rejection to the claims be withdrawn.

In view of the above, it is believed that the current claims are now in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree, then a telephonic or personal interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of the claims.

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date

Respectfully submitted,


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